

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:

SHEILA LYNN MANNS

Debtor

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CASE NO. 06-40090

DECISION AND ORDER

At Fort Wayne, Indiana, on June 29, 2006.

The motion to avoid a judicial lien in exempt property filed by the debtor on June 6, 2006 is DENIED, without prejudice, because the movant has failed to allege sufficient facts to state a cognizable claim for lien avoidance pursuant to §522(f)(1). See, In re Wall, 127 B.R. 353, 355 (Bankr. E.D. Va. 1991). Unlike adversary proceedings which contemplate notice pleading, motions initiating contested matters are required to state the grounds for relief “with particularity.” See, Fed. R. Bankr. P. Rule 9013.

Not every judicial lien upon exempt property may be avoided. Lien avoidance pursuant to §522(f)(1) is available only where the judicial lien impairs a claimed exemption. The concept of impairment was reduced to a mathematical formula by the amendments to §522(f) promulgated by the Bankruptcy Reform Act of 1994. 11 U.S.C. §522(f)(2)(A); In re Thomsen, 181 B.R. 1013, 1015 (Bankr. M.D. Ga. 1995). When the amount due on account of the liens sought to be avoided, all other liens on the property and the amount of the debtor’s exemption “exceeds the value that the debtor’s interest in the property would have in the absence of any liens” the debtor’s exemption is impaired. 11 U.S.C. §522(f)(2)(A)(i) thru (iii). Thus, in order for the court to determine if a judgment lien impairs an exemption to which a debtor may be entitled, in addition to identifying the property subject to the judicial lien, the motion must provide information concerning the value of

the property, the amount due on account of all liens against it, the amount of the liens to be avoided, and the amount of the exemption claimed by the debtor. 11 U.S.C. §522(f)(2)(A); see also, Thomsen, 181 B.R. at 1015-16.

While the debtor's motion states that she is entitled to avoid the lien, the motion does not provide any information concerning the value of the property, the amount due on any liens secured by the property, or any information concerning the amount of the exemption actually claimed by the debtor. Without this information the court does not have sufficient facts before it to determine whether the liens in question impair a claimed exemption. As such, the motion fails to state a cognizable claim for lien avoidance pursuant to §522(f)(1). Furthermore, the notice of the motion and opportunity to object which was served on creditors and parties in interest does not comply with the local rules of this court. See, N.D. Ind. L.B.R. B-2002-2. The notice does not "state the relief sought" by the motion. N.D. Ind. L.B.R. B-2002-2(c)(3). The requirements of paragraph (c)(3) contemplate the relief sought will be described with a greater degree of specificity than simply stating that a motion was filed. See also, LBF-3(a), 3(b).

Consequently, not only is the motion deficient, but creditors and parties in interest have not been given appropriate notice of the motion and the opportunity to object thereto.

IT IS THEREFORE ORDERED that the motion to avoid a judicial lien filed by the debtor on June 6, 2006, is denied, without prejudice.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court